

ValpoScholar

Valparaíso University Law Review

Volume 50
Number 2 *Winter 2016*

Winter 2016

Front Matter

Follow this and additional works at: <https://scholar.valpo.edu/vulr>



Part of the [Law Commons](#)

Recommended Citation

Front Matter, 50 Val. U. L. Rev. (2016).

Available at: <https://scholar.valpo.edu/vulr/vol50/iss2/1>

This Front Matter is brought to you for free and open access by the Valparaíso University Law School at ValpoScholar. It has been accepted for inclusion in Valparaíso University Law Review by an authorized administrator of ValpoScholar. For more information, please contact a ValpoScholar staff member at scholar@valpo.edu.



VALPARAISO UNIVERSITY LAW REVIEW

**VOLUME 50
Winter Issue
2016**

**VALPARAISO UNIVERSITY
LAW SCHOOL
VALPARAISO, INDIANA
2016**

VALPARAISO UNIVERSITY LAW REVIEW

LIFE PATRONS

DAVID & JOAN BAHLMANN
Muncie, Indiana
ROBERT A. BEER
Cummings & Lockwood
Newtown, Connecticut
EUGENE E. BRASSFIELD
Brassfield, Cowan &
Howard
Rockford, Illinois
MARK J. BREMER
Kohn, Shands, Elbert,
Gianoulakis & Giljum
St. Louis, Missouri
KENNETH R. BRUCE
Babst, Calland, Clements
& Zomnir
Pittsburgh, Pennsylvania
DAVID G. CLARK
Valparaiso, Indiana
RICHARD W. DUESENBERG
Monsanto Company
St. Louis, Missouri
JEFFREY J. DYWAN
Dyer, Indiana
THE HONORABLE
HERBERT H. FREISE
Seattle, Washington
GENE H. HENNIG
Gray Plant Mooty
Minneapolis, Minnesota
JAYME WALKER HOLCOMB
Woodbridge, Virginia
JAY C. JOHNSON
Texas Instruments, Inc.
Plano, Texas
CURTIS T. JONES
Bose, McKinney &
Evans, LLP
Indianapolis, Indiana

ALFRED Y. KIRKLAND, JR.
Brady & Jensen
Elgin, Illinois
WILLIAM P. KRATZKE
Memphis, Tennessee
ALLEN L. LANDMEIER
St. Charles, Illinois
PROFESSOR TERRY L.
LANTRY
Colorado State University
College of Business
Fort Collins, Colorado
FRANK LATTAL
ACE Bermuda
Insurance Ltd.
Hamilton, Bermuda
JACK W. LAWSON
Fort Wayne, Indiana
STEPHEN E. LEWIS
Haller & Colvin
Fort Wayne, Indiana
MARY ANN LINK
Richmond, Virginia
THOMAS H. NELSON
Portland, Oregon
EILEEN J. NEWHOUSE
Owatonna, Minnesota
WADE R. NICHOLS
Fishers, Indiana
GEORGE C. PATRICK
George C. Patrick &
Associates, P.C.
Crown Point, Indiana
JOHN R. PERA
Crown Point, Indiana

DONALD E. PREVALLET
Reid, Burge, Prevallet &
Coleman
Blytheville, Arkansas
DONALD E. SCHLYER
Valparaiso, Indiana
THE HONORABLE
LOREN E. SCHNACK
Quincy, Illinois
ROBERT E.W. SCHNOOR
Grand Rapids, Michigan
EUGENE A. SCHOON
Sidley Austin L.L.P.
Chicago, Illinois
ROBERT A. SEIDEL
Lake Forest, Illinois
GARY M. SELIG
Indianapolis, Indiana
MICHAEL I. SWYGERT
St. Petersburg, Florida
MATTHEW S. TARKINGTON
Lewis & Kappes, P.C.
Indianapolis, Indiana
NICK J. THIROS
Cohen & Thiros
Merrillville, Indiana
JEFFREY E. WALLACE
Wyatt, Tarrant & Combs
Louisville, Kentucky
JOHN W. YAKIMOW
Synnestvedt Lechner &
Woodbridge LLP
Marshall, Michigan
GERI & RON YONOVER
Chicago, Illinois
JAMES W. ZERRENNER
Grand Rapids, Michigan

et al.: Front Matter

BENEFACTORS

ROBERT H. DUESENBERG
Oakton, Virginia

PETER L. KRENTZ
Krentz & Salfisberg,
Swanson, Haggard P.C.
Plano, Illinois

THE HONORABLE
ROBERT C. PROBST
Kendallville, Indiana

CONTRIBUTING PATRONS

RICHARD S. EYNON
Columbus, Indiana

THOMAS K. HOFFMAN
Merrillville, Indiana

JAMES E. REEVES
Ward and Reeves
Caruthersville, Missouri

SUPPORTING PATRONS

JOHN J. HORELED
Crystal Lake, Illinois
RALPH R. HUFF
Jones Huff & Jones
Plymouth, Indiana

DANIEL J. KOZERA, JR.
Kozera & Associates, P.C.
Grand Rapids, Michigan
LINDSAY OGLE
Avon, Ohio

THE HONORABLE
HOWARD E. PETERSEN
La Grange Circuit Court
La Grange, Indiana
J.J. STANKIEWICZ
Merrillville, Indiana
STEVEN E. WERMCRANTZ
Springfield, Illinois

The following published contributions reflect the views of the individual authors and do not necessarily represent the views of the *Valparaiso University Law Review*, its editors, or Valparaiso University.

Cite as 50 VAL. U. L. REV. 000

Copyright © 2016 by *Valparaiso University Law Review*

Except as otherwise expressly provided, the *Valparaiso University Law Review* has provided permission for copies of any article in this volume to be made and used by nonprofit educational institutions, provided that copies are distributed at or below cost, author and journal are identified, and proper notice of copyright is affixed to each copy.

ISSN 0042-2363

VALPARAISO UNIVERSITY LAW SCHOOL

UNIVERSITY OFFICERS

MARK A. HECKLER, M.F.A., Ph.D.	<i>President</i>
MARK L. BIERMANN, Ph.D.	<i>Provost and Executive Vice President for Academic Affairs</i>
DARRON FARHA, B.A., M.B.A., J.D.	<i>Vice President and University Counsel</i>
SUSAN SCROGGINS, M.B.A.	<i>Vice President for Finance and Administration</i>
LISA HOLLANDER, B.A.	<i>Vice President for Advancement</i>
BONNIE L. HUNTER, M.B.A.	<i>Vice President for Student Affairs</i>
MICHAEL JOSEPH, B.A., M.A.	<i>Vice President for Enrollment Management</i>
ANDREA D. LYON, B.A., J.D.	<i>Dean of the Law School</i>
SUSAN P. STUART, M. ED., J.D.	<i>Associate Dean for Academic Affairs of the Law School</i>
EMILY JANOSKI-HAEHLEN, J.D., M.S.L.S.	<i>Associate Dean for Library Services of the Law School</i>
STEVEN R. PROBST, B.A., J.D., M.L.I.S.	<i>Assistant Dean for Students of the Law School</i>

THE LAW SCHOOL

FACULTY—2015–2016

NATALIE M. BANTA, <i>Assistant Professor of Law</i> Brigham Young University (B.S., 2006; J.D., 2009).
BRUCE G. BERNER, <i>Professor Emeritus of Law</i> Valparaiso University (B.A., 1965; LL.B., 1967); Yale Law School (LL.M., 1978).
ROBERT F. BLOMQUIST, <i>Professor of Law</i> University of Pennsylvania (B.S., 1973); Cornell University (J.D., 1977).
IVAN E. BODENSTEINER, <i>Professor of Law</i> Loras College (B.A., 1965); University of Notre Dame (J.D., 1968).
PHILIPP L. BROCKINGTON, <i>Professor Emeritus of Law</i> Amherst College (B.A., 1962); Harvard University (J.D., 1965).
GENEVA BROWN, <i>Professor of Law</i> University of Wisconsin (B.A., 1988; J.D., 1993); University of Illinois-Chicago (M.A., 2004).
DERRICK AUGUSTUS CARTER, <i>Associate Professor of Law</i> Eastern Michigan University (B.S., 1972); Valparaiso University (J.D., 1975).
CURTIS W. CICHOWSKI, <i>Professor of Law and Michael & Dianne Swygert Teaching Fellow</i> Carroll College (B.A., 1978); Valparaiso University (J.D., 1981).
DAVID R. CLEVELAND, <i>Professor of Law</i> Western Michigan University (B.A., 1998); Georgetown University Law Center (J.D., 2002).
LAURA GASTON DOOLEY, <i>Professor of Law</i> University of Arkansas (B.A., 1982); Washington University (J.D., 1986).
CHARLES A. EHREN, JR., <i>Professor Emeritus of Law</i> Columbia University (A.B., 1954; J.D., 1956).
EDWARD MCGLYNN GAFFNEY, JR., <i>Professor of Law</i> St. Patrick's College (B.A., 1963); Gregorian University (S.T.L., 1967); Catholic University of America (J.D., 1974; M.A., 1975); Harvard University (LL.M., 1976).
MARCIA L. GIENAPP, <i>Professor of Law</i> Valparaiso University (B.A., 1973; J.D., 1977).
GEOFFREY HEEREN, <i>Associate Professor of Law</i> University of Chicago (B.A., 1996); New York University (J.D., 2000).
DAVID HERZIG, <i>Professor of Law</i> University of Louisville (B.A., 1993); University of Kentucky (J.D., 1997).

- DERRICK HOWARD, *Associate Professor of Law*
University of Pittsburgh (B.A., 1987; J.D., 1990).
- REBECCA J. HUSS, *Professor of Law*
University of Northern Iowa (B.A., 1989); University of Richmond (J.D., 1992);
University of Iowa (LL.M., 1995).
- EMILY JANOSKI-HAEHLEN, *Associate Dean for Law Library Services and Assistant Professor of Law*
University of Kentucky (B.S., 2002); Salmon P. Chase College of Law,
Northern Kentucky University (J.D., 2005); University of Kentucky (M.S.L.S., 2007).
- ROBERT H. KNOWLES, *Assistant Professor of Law*
St. Olaf College (B.A., 1993); Northwestern University School of Law (J.D., 2001).
- PAUL M. KOHLHOFF, *Professor of Law*
Purdue University (B.S., 1981); Valparaiso University (J.D., 1986).
- FAISAL KUTTY, *Associate Professor of Law and Director of the International LL.M. Program*
University of Ottawa (J.D., 1994); Osgoode Hall Law School (LL.M., 2006);
Osgoode Hall Law School (Cand. Ph.D.).
- ROSALIE B. LEVINSON, *Professor of Law and Phyllis and Richard Duesenberg Chair in Law*
Indiana University (B.A., 1969; M.A., 1970); Valparaiso University (J.D., 1973).
- JOELLEN L. LIND, *Professor of Law*
Stanford University (A.B., 1972); University of California-Los Angeles (J.D., 1975);
University of Utah (Cand. Ph.D.).
- SEYMOUR MOSKOWITZ, *Professor of Law*
Columbia University (B.A., 1963); Harvard University (J.D., 1966).
- DAVID A. MYERS, *Professor Emeritus of Law*
Drake University (B.A., 1973); University of Illinois (J.D., 1976).
- NICOLE NEGOWETTI, *Associate Professor of Law*
University of Scranton (B.A., 2002); University of Limerick, Ireland (M.A., 2003);
Franklin Pierce Law Center (University of New Hampshire School of Law) (J.D., 2009).
- CLARE KRAEGEL NUECHTERLEIN, *Distinguished Practitioner in Residence*
Valparaiso University (B.A., 1972; M.A.L.S., 1975; J.D., 1979).
- MARY G. PERSYN, *Associate Professor Emeritus of Law*
Creighton University (A.B., 1967); University of Oregon (M.L.S., 1969);
University of Notre Dame (J.D., 1982).
- JOHN J. POTTS, *Professor Emeritus of Law*
University of New Mexico (B.A., 1969); Boston College (J.D., 1974);
Northeastern University (M.S., 1975).
- ANDREW P. RODOVICH, *Distinguished Jurist in Residence*
Valparaiso University (B.A., 1970; J.D., 1973).
- BARBARA A. SCHMIDT, *Professor of Law*
Valparaiso University (B.A., 1970; J.D., 1973).
- JANE M. SIEGEL, *Visiting Professor of Law*
University of Michigan (B.F.A.); Thomas M. Cooley Law School (J.D.).
- RICHARD T. STITH III, *Professor Emeritus of Law*
Harvard University (A.B., 1965); University of California, Berkeley (M.A., 1967);
Yale University (M. Phil., 1971; Ph.D., 1973; J.D., 1973).
- MICHAEL S. STRAUBEL, *Professor of Law*
Western Michigan University (B.S., 1979); Marquette University (J.D., 1982);
McGill University (LL.M., 1989).
- SUSAN P. STUART, *Associate Dean for Academic Affairs and Professor of Law*
DePauw University (B.A., 1973); Valparaiso University (M.Ed., 1976);
Indiana University-McKinney School of Law (J.D., 1982).
- MARY C. SZTO, *Associate Professor of Law*
Wellesley College (B.A., 1981); Westminster Theological Seminary (M.A., 1983);
Columbia University School of Law (J.D., 1986).

- D. A. JEREMY TELMAN, *Professor of Law*
Columbia University (B.A., 1985); Cornell University (M.A., 1989; Ph.D., 1993);
New York University (J.D., 1999).
- BERNARD TRUJILLO, *Professor of Law and Jack Hiller Distinguished Faculty Award Recipient*
Princeton University (A.B., 1988); Yale Law School (J.D., 1992).
- RUTH C. VANCE, *Professor of Law and Director of Legal Writing*
Olivet College (B.A., 1979); Valparaiso University (J.D., 1982).
- DAVID E. VANDERCOY, *Professor of Law and Director of Clinical & Skills Training Programs*
Pennsylvania State University (B.A., 1971); Dickinson School of Law (J.D., 1974);
New York University (LL.M., 1980).
- DAVID WELTER, *Professor of Law*
Valparaiso University (B.A., 1983; J.D., 1990).
- LINDA S. WHITTON, *Professor Emeritus of Law*
Valparaiso University (B.A., 1979; J.D., 1986).
- STEPHEN WILKS, *Associate Professor of Law*
Queens University (B.A., 1994, J.D., 1999); University of Toronto (M.S.W., 1996);
Osgoode Hall Law School (LL.M., 2007; Ph.D., 2011).
- DEL WRIGHT JR., *Associate Professor of Law*
University of Maryland (B.S., 1992); University of Chicago (J.D., 1996);
Harvard University (M.P.P., 1997).
- GERI J. YONOVER, *Professor Emeritus of Law*
University of Chicago (B.A., 1964); IIT Chicago-Kent College of Law (J.D., 1983).

ADJUNCT FACULTY

- CONNIE L. BAUSWELL, *Adjunct Professor of Law*
University of Dallas (B.A. 1993); Indiana University-Mauer School of Law (J.D., 1996).
- ROGER BRADFORD, *Adjunct Professor of Law*
Indiana State University (B.A., 1967); Valparaiso University (J.D., 1973).
- PHILIP BRZOZOWSKI, *Adjunct Professor of Law*
Illinois Institute of Technology (B.S., 2001); The John Marshall Law School (J.D., 2008).
- JEANENE E. CALABRESE, *Adjunct Professor of Law*
St. Mary of the Woods College (B.S., 1984); Valparaiso University (J.D., 1990).
- PAUL CHERRY, *Adjunct Professor of Law*
Huntington College (B.A., 1973); Ohio Northern University (J.D., 1977).
- JEFF CLYMER, *Adjunct Professor of Law*
Kalamazoo College (B.A., 1983); Valparaiso University (J.D., 1992).
- BONNIE COLEMAN, *Adjunct Professor of Law*
Ripon College, Wisconsin (B.A., 1981); Valparaiso University (J.D., 1984).
- SUSAN COLLINS, *Adjunct Professor of Law*
DePauw University (B.A., 1983); Drake University (J.D., 1986).
- RYAN DEUTMEYER, *Adjunct Professor of Law*
St. Ambrose University (B.A., 2011); Valparaiso University (J.D., 2014).
- ELIZABETH FLORES, *Adjunct Professor of Law*
Purdue University (B.A., 1987); Valparaiso University (J.D., 1991).
- BRIAN GENSEL, *Adjunct Professor of Law*
Purdue University-Hammond (B.S., 1983); Valparaiso University (J.D., 1987).
- DANIEL A. GIOIA, *Adjunct Professor of Law*
Georgetown University (B.A., 1972); American University Law School (J.D., 1975).
- RACHELLE C. HATCHER, *Adjunct Professor of Law*
Valparaiso University (B.A., 2005); DePaul University College of Law (J.D., 2009).
- DAVID L. HOLLENBECK, *Adjunct Professor of Law*
Valparaiso University (B.A., 1969; J.D., 1974).

- JAMES HOUGH, *Adjunct Professor of Law*
Grand Rapids Baptist College (B.A., 1994); Valparaiso University (J.D., 1998).
- TRISTA HUDSON, *Adjunct Professor of Law*
Valparaiso University (B.A., 1995; J.D., 1998).
- HEIDI L. KEENAN, *Adjunct Professor of Law*
North Dakota State University (B.S., 1991); Valparaiso University (J.D., 2004).
- VILIUS LAPAS, *Adjunct Professor of Law*
Franciscan University of Steubenville (B.A., 1996); Ave Marie School of Law (J.D., 2003).
- JOHN E. MARTIN, *Adjunct Professor of Law*
Valparaiso University (B.A., 1984; J.D., 1987).
- TERESA MASSA, *Adjunct Professor of Law*
Indiana University (B.A., 1976); Valparaiso University (J.D., 1991).
- ELIZABETH ADAMEC MOORE, *Adjunct Professor of Law*
Valparaiso University (B.A., 1999; J.D., 2007).
- JAMES A. MORSCH, *Adjunct Professor of Law*
University of Notre Dame (B.A., 1987); Northwestern University School of Law (J.D., 1992).
- KERRY PANGERE, *Adjunct Professor of Law*
Purdue University (B.A., 1990); Valparaiso University (J.D., 1999).
- ROBERT F. PARKER, *Adjunct Professor of Law*
University of Notre Dame (B.A., 1974); Indiana University (J.D., 1977).
- LJUBICA D. POPOVIC, *Adjunct Professor of Law*
Loyola University of Chicago (B.A., 1995); IIT Chicago-Kent College of Law (J.D., 1998).
- RYAN ROWAN, *Adjunct Professor of Law*
University of Kansas (B.S., 2008); Valparaiso University (J.D., 2011).
- CHRISTOPHER B. SCHNEIDER, *Adjunct Professor of Law*
Western Michigan University (B.A., 2006); Wayne State University Law School (J.D., 2009).
- JOHN SEDIA, *Adjunct Professor of Law*
Indiana University (A.B., 1976; J.D., 1979).
- JOHN SHANAHAN, *Adjunct Professor of Law*
Indiana University (B.A., 1977); Valparaiso University (J.D., 1985).
- MORRIS A. SUNKEL, *Adjunct Professor of Law*
University of Illinois (B.S., 1970); Valparaiso University (J.D., 1974);
The John Marshall Law School (LL.M., 1996).
- ADAM SWORDEN, *Adjunct Professor of Law*
Iowa State University (B.S., 2005); Valparaiso University (J.D., 2011).
- MICHAEL TOLBERT, *Adjunct Professor of Law*
Valparaiso University (B.A., 1997; J.D., 2000).
- SHELICE R. TOLBERT, *Adjunct Professor of Law*
Wittenberg University (B.A., 1997); Valparaiso University (J.D., 2000).
- BRYAN M. TRUITT, *Adjunct Professor of Law*
Indiana University (B.A., 1991); Valparaiso University (J.D., 1997).
- CHARLES V. VAUGHAN, *Adjunct Professor of Law*
Purdue University (B.S., 1978); Valparaiso University (J.D., 1985).
- KATHARINE E. WEHLING, *Legal Writing Specialist and Adjunct Instructor*
Arizona State University (B.A., 1979); Valparaiso University (J.D., 1983).
- JEFFREY S. WRAGE, *Adjunct Professor of Law*
Indiana University (B.S., 1991); Valparaiso University (J.D., 1994).
- RANDALL J. ZROMKOSKI, *Adjunct Professor of Law*
Wabash College (B.A., 1981); Valparaiso University (J.D., 1984).

LIBRARIANS

- MICHAEL J. BUSHBAUM, *Associate Law Librarian for Access Services and Associate Professor*
University of Nevada, Reno (B.S., 1990); Northwestern School of Law of Lewis and
Clark College (J.D., 1993); University of Washington (M. Libr., 1994).
- DEBRA L. DENSLAW, *Faculty Services Librarian and Associate Professor*
Franklin College (B.A., 1979); Valparaiso University (J.D., 1989);
University of Illinois (M.S.L.I.S., 2003).
- NAOMI J. GOODMAN, *Associate Professor Emeritus*
University of Queensland (B.A., 1968); University of New South Wales (Dip. L., 1969).
SARAH G. HOLTERHOFF, *Government Information/Reference Librarian and Associate Professor*
Ohio State University (B.S., 1970); University of Wisconsin-Milwaukee (M.A.L.S., 1975).
- EMILY JANOSKI-HAEHLEN, *Associate Dean for Library Services and Assistant Professor of Law*
University of Kentucky (B.S., 2002); Northern Kentucky University, Salmon P. Chase
College of Law (J.D., 2005); University of Kentucky (M.S.L.S., 2007).
- STEVEN R. PROBST, *Assistant Dean for Students, Educational Services Librarian,
and Associate Professor*
Valparaiso University (B.A., 1990; J.D., 2002); Dominican University (M.L.I.S., 2005).
- LARISSA SULLIVANT, *Cataloging and Acquisitions Librarian and Associate Professor*
Moscow State Linguistic University (B.A., 1984); Moscow State Institute for Foreign Tourism
(M.A., 1986); Wayne State University (M.L.I.S., 2000).

VALPARAISO UNIVERSITY LAW REVIEW

VOLUME 50

WINTER 2016

NUMBER 2

EDITORIAL BOARD

Editor in Chief
ALYSSA SPARTZ

Associate Editor in Chief
ELIZABETH LITTLEJOHN

Executive Managing Editor
SHA'NA HARRIS

Executive Editor of Lectures & Symposium
SYDNEY WEATHERSBY

Executive Editor of Student Writing
MARYAM A. AFSHAR

Executive Editor of Publication
STEPHANIE L. KROEZE

*Associate Executive Editors
of Student Writing*
CECELIA HARPER
RYAN SULLIVAN

*Associate Executive Editors
of Publication*
DIMONIQUE MCGRUDER
ELIZABETH M. VALERIANE

ASSOCIATE EDITORS

JAMES BARTH
KARA BEKELYA
LAUREN DEITRICH

ERICA MAAR
EMILY MUSSIO

MACKENZIE SKALSKI
COURTNEY SMITH
EMILY VANTYLE

FACULTY ADVISOR
EMILY JANOSKI-HAEHLEN

LIBRARY LIAISON
STEVEN R. PROBST

PUBLICATION ADMINISTRATOR

KAREN L. KOELEMAYER

NOTEWRITERS

ABBY S. BUSLER
MANUELA CABAL C.
CATHERINE CATES
NICHOLAS DEMARIO
CALEB DETWEILER
DANIELLE DOBRY
TRAVIS RAY GARNER

TALISHA GRIFFIN
KATHERINE HAGANMAN
CHELSEA HILLMAN
NATALIE HOCH
JESS HUNTER-BOWMAN
KATLYN KRANIK
THOMAS J. LYONS

KIRSTEN MYERS
ANDREW PAPPAS
IRENA STEFANOVSKI
JOSHUA STEIN
MATTHEW THOR
BRIAN TUINENGA
PORSHA R. WINTERS

Member, National Conference of
Law Reviews

VALPARAISO UNIVERSITY LAW REVIEW

VOLUME 50

WINTER 2016

NUMBER 2

CONTENTS

AN INTRODUCTION

Robert Knowles 415

PERMANENT STATES OF EXCEPTION: A TWO-TIERED SYSTEM OF CRIMINAL JUSTICE COURTESY OF THE DOUBLE GOVERNMENT WARS ON CRIME, DRUGS & TERROR

Thomas Anthony Durkin 419

THE NEED TO REFOCUS THE U.S. GOVERNMENT'S POST-9/11 COUNTER-TERRORIST FINANCING STRATEGY DIRECTED AT AL QAEDA TO TARGET THE FUNDING OF ISIS

Jimmy Gurulé 493

LECTURES

CONSTITUTIONAL RHETORIC

Jamal Greene 519

THE ECONOMIC LOSS RULE

Ward Farnsworth 545

NOTE

HARRIS V. QUINN AND FREEDOM OF ASSOCIATION: WHY CONGRESS NEEDS TO STEP IN TO EXPAND THE RULING

Ryan Sullivan 573

